

SENATE BILL NO. 676

BY SENATOR HEBERT

AN ACT

To amend and reenact R.S. 22:1984 and R.S. 44:4.1(B)(10), relative to examination and investigation of insurers and regulated entities; to provide for financial and market analysis of insurers and regulated entities; to provide for penalties; to provide for confidentiality; to provide for standards and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1984 is hereby amended and reenacted to read as follows:

§1984. Commissioner of insurance to conduct ~~annual office review~~ **financial and market analysis** of insurers **and regulated entities**

A. In addition to those examinations performed by the commissioner of insurance pursuant to R.S. 22:1981, the commissioner of insurance shall conduct ~~an annual office~~ **financial and market analysis** review of all insurers authorized to do business in this state, ~~other than life, health, and accident insurers and nonprofit funeral associations~~ **and may conduct regulatory reviews of entities regulated by Title 22 of the Louisiana Revised Statutes of 1950, or the Department of Insurance except for trusts established and operated under R.S. 22:46(9)(b),(c), or (d).** Such ~~office~~ reviews ~~shall~~ **may** include the annual statement **and the market conduct annual statement** of the insurer **or regulated entity** reviewed, company financial reports rendered pursuant to good and acceptable accounting practices, results of insurance solvency standards testing as performed by the National Association of Insurance Commissioners, results of prior examinations and office reviews, management changes, consumer complaints, and such other relevant information as from time to time may be required by the commissioner.

B. **In lieu of conducting a financial or market analysis under this Section of any foreign or alien insurer licensed in this state, the commissioner may rely**

1 upon the financial or market analysis conducted by the insurance department
2 for the company's state of domicile or port-of-entry state accredited under the
3 National Association of Insurance Commissioners' Financial Regulation
4 Standards and Accreditation Program. ~~The commissioner shall timely furnish to~~
5 ~~each reviewed insurer a written report detailing the findings of each such annual~~
6 ~~review. Within forty-five days of its receipt of such written report, each reviewed~~
7 ~~insurer shall provide to the commissioner such response, rebuttal, explanation, or~~
8 ~~other information as it may see fit. The commissioner shall furnish to any person,~~
9 ~~upon request, a copy of the written report, accompanied by a copy of the response,~~
10 ~~rebuttal, explanation, or other information provided by the reviewed insurer.~~

11 C. Failure by an insurer or regulated entity to supply information
12 requested by the Department of Insurance during the course of financial or
13 market analysis may subject the insurer or regulated entity to revocation or
14 suspension of its license, or, in lieu thereof, a fine not to exceed ten thousand
15 dollars per occurrence. Every insurer or regulated entity shall produce and
16 make freely accessible to the commissioner of insurance the accounts, records,
17 documents, and files in its possession or control.

18 D. All work papers, recorded information, documents, and copies
19 thereof produced by, obtained by, or disclosed to the commissioner, or any
20 other person in the course of conducting a regulatory review, financial, or
21 market analysis, including market conduct annual statement information,
22 performed under this Section, as well as the review and analysis of such
23 information, shall be given confidential treatment and are not subject to
24 subpoena or to discovery and may not be made public by the commissioner or
25 any other person, except that access may be granted to the National Association
26 of Insurance Commissioners, insurance department of other states,
27 international, federal, or state law enforcement agencies or international,
28 federal, or state regulatory agencies with statutory oversight over the financial
29 services industry, if the recipient agrees to maintain the confidentiality of those
30 documents which are confidential under the laws of this state. Any documents,

1 materials, or other information which are disclosed by the commissioner to a
2 third party shall not be admissible in evidence in a private civil action and shall
3 be exempt from any applicable freedom of information law, public records law,
4 or similar statute. No person or entity which receives or has access to
5 documents, materials, or other information under this Section shall be
6 permitted or required to testify in a private civil action concerning such
7 documents, materials, or other information. No waiver of an applicable
8 privilege or a claim of confidentiality in the documents, materials, or other
9 information shall occur as a result of disclosure to the commissioner or to any
10 other person granted access under this Section as a result of sharing such
11 documents, materials, or other information as provided in this Section. Nothing
12 in this Section shall require an insurer to disclose documents, materials, or
13 other information to a third party that is not otherwise required by law to be
14 disclosed.

15 E. In conducting financial or market analysis, the examiner or
16 examiners shall observe those guidelines and procedures set forth in the
17 *Financial Analysis Handbook* or *Market Regulation Handbook* adopted by the
18 National Association of Insurance Commissioners. The commissioner may also
19 employ such other guidelines or procedures as the commissioner may deem
20 appropriate.

21 F. Nothing contained in this Chapter shall be construed to limit the
22 commissioner's authority to use any final or preliminary analysis findings, any
23 Department of Insurance or company work papers or other documents, or any
24 other information discovered or developed during the course of any analysis in
25 the furtherance of any legal or regulatory action which the commissioner may,
26 in his sole discretion, deem appropriate.

27 G. Any insurer or regulated entity against whom a fine has been levied
28 shall be given thirty days notice of such action. Upon receipt of this notice, the
29 aggrieved insurer or regulated entity may apply for and shall be entitled to a
30 hearing pursuant to R.S. 22:2191, et seq.

1 Section 2. R.S. 44:4.1(B)(10) is hereby amended and reenacted to read as follows:

2 §4.1. Exceptions

3 * * *

4 B. The legislature further recognizes that there exist exceptions, exemptions,
5 and limitations to the laws pertaining to public records throughout the revised
6 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
7 limitations are hereby continued in effect by incorporation into this Chapter by
8 citation:

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10 (10) R.S. 22:2, 14, 42.1, 88, 244, 461, 572, 574, ~~628~~ **618**, 706, 732, 752,
11 1203, 1460, 1466, 1546, 1644, 1656, 1723, 1929, 1983, **1984**, 2036, 2303

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PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____